

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 11385 PERMIT 7063 LICENSE 3491

**ORDER CORRECTING POINT OF DIVERSION AND SOURCE,
REVOCATION OF ORIGINAL LICENSE AND
ISSUANCE OF SEPARATE LICENSES**

WHEREAS:

1. License 3491 was issued to Ruby E. Fielding on April 25, 1952 pursuant to Application 11385 and recorded with the County Recorder of Del Norte County on April 28, 1952.
2. License 3491 was subsequently assigned to Hastings Bulb Growers, Inc., Smith River Farms, Inc., and Robert H. Stanhurst on June 2, 1997.
3. The State Water Resources Control Board (SWRCB) staff determined the description of the source and tributary under License 3491 should be corrected to agree with the 1966 U.S. Geological Survey Map (7.5') - Smith River.
4. A request for a correction to the description of the point of diversion and division of License 2993 and issuance of separate licenses to cover licensee's respective interest in license under three separate ownership was received by the SWRCB on June 20, 1997.
5. The SWRCB has determined the said corrections and division of the license do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
6. The license condition pertaining to the SWRCB's continuing authority should be replaced with the current version to conform with Section 780(A) Title 23, of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The description for the source be corrected to read as follows:
Ritmer Creek (AKA Mitchell Creek) tributary to Tillas Slough
(AKA Islis Slough) thence Smith River thence Pacific Ocean.
2. The description for the point of diversion be corrected to read as follows:
North 750 feet and West 700 feet from the SE corner of Section 21, T18N, R1W, HB&M, being within the SE¼ of SE¼ of said Section 21.
3. License 3491 be replaced by Licenses 3491A, 3491B and 3491C.
4. License 3491 is hereby revoked upon issuance of License 3491A issued to Hastings Bulb Growers, Inc., License 3491B issued to Smith River Farms, Inc., and License 3491C issued to Robert H. Stanhurst.

5. Separate Licenses be issued as follows:

- A. License 3491A (Application 11385A)
- Owner: Hastings Bulb Growers, Inc.,
c/o Stephen M. Hastings
P.O. Box 2155
Harbor, OR, 97415
- Source: Ritmer Creek (AKA Mitchell Creek) tributary to
Tillas Slough (AKA Islis Slough) thence Smith River
thence Pacific Ocean in Del Norte County
- Use: Irrigation
- Amount: 0.065 cubic foot per second
Maximum Annual Use: 19.3 acre-feet
- Season: April 1 to October 15 (Direct Diversion)
- Amount: A portion of 2.0 acre-feet collected to storage
under this license and Licenses 3491B and 3491C.
- Season: January 1 to May 1 (storage)
- Point of
Diversion: North 700 feet and West 700 feet from SE corner of
Section 21, T18N, R1W, HB&M, being within the SE¼ of
SE¼ of said Section 21, also described by
California Coordinate System, Zone 1, N 954,200
and E 1,407,850.
- Place of
Use: 25 acres described as follows:
- 5 acres, within the SW¼ of SW¼ of Section 22, T18,
R1W, HB&M
- 20 acres, within the SE¼ of SW¼ of Section 22, T18,
HB&M, as shown on map on file with the SWRCB.
(Assessor Parcel No: 102-020-35).
- B. License 3491B (Application 11385B)
- Owner: Smith River Farms, Inc.,
c/o Stephen M. Hastings
P.O. Box 2155
Harbor, OR 97415
- Source: Ritmer Creek (AKA Mitchell Creek) tributary to
Tillas Slough (AKA Islis Slough) thence Smith River
thence Pacific Ocean in Del Norte County
- Use: Irrigation
- Amount: 0.065 cubic foot per second
Maximum Annual Use: 19.3 acre-feet
- Season: April 1 to October 15 (Direct Diversion)
- Point of
Diversion: North 700 feet and West 700 feet from SE corner of
Section 21, T18N, R1W, HB&M, being within SE¼ of SE¼
of said Section 21, also described as California
Coordinate System, Zone 1, N 954,200 and E 1,407,850.
- Place of
Use: 18 acres described as follows:
- 5 acres, within the SW¼ of SE¼ of Section 21, T18N,
R1W, HB&M
- 10 acres, within the SE¼ of SE¼ of Section 21, T18N,
R1W, HB&M, and
- 3 acres, within the NE¼ of SW¼ of Section 22, T18N,
R1W, HB&M; as shown on map on file with the SWRCB.
(Assessor Parcel No. 102-010-30 & 31 and 102-020-36).

C. License 3491C (Application 11385C)

Owner: Robert H. Stanhurst
c/o Gary Derr
P.O. Box 540
Smith River, CA 95567

Source: Ritmer Creek (AKA Mitchell Creek) tributary to
Tillas Slough (AKA Islis Slough) thence Smith River
thence Pacific Ocean in Del Norte County

Use: Irrigation

Amount: 0.13 cubic foot per second
Maximum Annual Use: 38.6 acre-feet

Season: April 1 to October 15 (Direct Diversion)

Point of
Diversion: North 750 feet and West 700 feet from the SE corner of
Section 21, T18N, R1W, HB&M, being within the SE¼ of
SE¼ of said Section 21, also described by California
Coordinate System, Zone 1, N 954,200 and E 1,407,850.

Place of
Use: 45 acres described as follows:

5 acres, within the SW¼ of SE¼ of Section 21, T18N,
R1W, HB&M;
10 acres, within the SE¼ of SE¼ of Section 21, T18N,
R1W, HB&M;
15 acres, within the NE¼ of SW¼ of Section 22, T18N,
R1W, HB&M and
15 acres, within the SW¼ of SW¼ of Section 22, T18N,
R1W, HB&M, as shown on map on file with the SWRCB.
(Assessor Parcel No. 102-020-37 & 38 and
102-010-23).

6. The existing continuing authority condition under License 3491 be amended as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

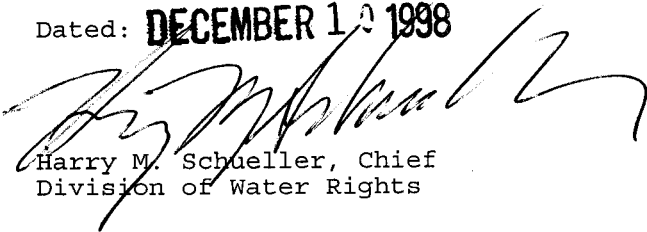
The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

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7. License 3491 shall contain all other terms and conditions presently in License 3491 or updated terms to reflect present SWRCB policy including the SWRCB's continuing authority term as contained in Title 23, California Code of Regulations.

Dated: **DECEMBER 10 1998**


Harry M. Schueller, Chief
Division of Water Rights



STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

License for Diversion and Use of Water

APPLICATION 11385

PERMIT 7063

LICENSE 3491

THIS IS TO CERTIFY, That

Ruby E. Fielding
998 11th Street
Arcata, California

Notice of Assignment (Over)

has made proof as of August 28, 1951

(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of
Mitchell Creek in Del Norte County

tributary to **Islis Slough thence Smith River**

for the purpose of **irrigation use**

under Permit **7063**

of the Department of Public Works and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the Department of Public Works and the terms of the said permit; that the priority of the right herein confirmed dates from **April 29, 1946**; and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **twenty-six hundredths (0.26) cubic foot per second** to be diverted from about **April 1** to about **October 15** of each year and **two (2) acre-feet per annum** to be collected from about **January 1** to about **May 1** of each year.

The equivalent of such continuous flow allowance for any thirty day period may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located **North seven hundred (700) feet and West one thousand thirty (1030) feet** from **SE corner of Section 21, T 18 N, R 1 W, H.B.&M.**, being within **SE $\frac{1}{4}$ of SE $\frac{1}{4}$** of said Section 21.

A description of the lands or the place where such water is put to beneficial use is as follows: **30 acres within SE $\frac{1}{4}$ of Section 21 and 58 acres within SW $\frac{1}{4}$ of Section 22, T 18 N, R 1 W, H.B.&M., as shown on map filed with State Engineer.**

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Department acting through the State Engineer in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Engineer.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Witness my hand and the seal of the Department of Public
Works of the State of California, this 25th
day of April, 19 52



A. D. Edmonston, State Engineer

7/25/55 RECEIVED NOTICE OF ASSIGNMENT TO Robert K. & Elizabeth C. Hastings

11-14-57 RECEIVED NOTICE OF ASSIGNMENT TO Robert H. Stanhurst &
Bernice C. Stanhurst

6/4/97 assigned to Hastings
Bull Growers, Inc.,
Smith River Farms,
Inc. & Robert H. Stanhurst

LICENSE 3491

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

LICENSE
TO APPROPRIATE WATER

ISSUED TO Ruby E. Fielding

APR 25 1952

DATED

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